

Exhibit 4

Maggie Szewczyk

From: Richard L. Brophy
Sent: Monday, August 20, 2018 6:04 PM
To: Phil O'Beirne (POBeirne@steinmitchell.com); Robert B. Gilmore
<RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Rightscorp Issues

Phil,

These are the spoliation and preservation issues on which we need to meet and confer:

1. Retention of the Rightscorp system source code.
2. Retention of CM records for the Rightscorp system source code.
3. Retention of call center written records and recorded phone calls.
4. Retention of actual data transferred from subscribers (*e.g.* packets of data transferred between parties, including control communications).
5. Retention of materials used by Rightscorp personnel to determine whether a downloaded work was in fact an infringing copy, and any records related to such determination.
6. Retention of results from Audio Fingerprinting system (*e.g.* AcoustID).

These materials are responsive to at least the following requests:

RFPs served on Plaintiffs:

3, 6, 7, 8, 21, 22, 23, 24, 34, 51, 52, 61, 62

RFPs served on Rightscorp:

4, 5, 6, 7, 8, 9, 10, 11, 12, 21, 24, 25, 31, 32, 33, 34

Interrogatories served on Rightscorp:

1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 20, 23, 25, 26, 29, 30, 39, 40, 41

To be clear, we have identified these RFPs at your request and in an effort to expedite the meet and confer process. Rightscorp, Plaintiffs' and RIAA's spoliation of evidence is an issue separate and apart from any discovery Grande served on the parties in this case.

Please also let me know when you are available to meet and confer on Plaintiffs' recently-served expert reports. We intend to move to strike the Lehr and Bardwell reports as improper rebuttal opinions that are non-compliant with the Court's scheduling order.

R



Armstrong Teasdale LLP

Richard L. Brophy | Partner – IP Litigation

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DIRECT: 314.342.4159 | FAX: 314.613.8579 | MAIN OFFICE: 314.621.5070 | CELL: 314.566.5117

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Tuesday, August 28, 2018 3:20 PM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Rightscorp Meet and Confer

Rob,

When we spoke last week, you indicated that you would have a final answer regarding the various spoliation issues we raised early this week. When can we expect that response?

As I explained on our last call, we are not willing to let this issue fester while Rightscorp and Plaintiffs investigate issues that should have been addressed months ago.

Richard



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Maggie Szewczyk

From: Richard L. Brophy
Sent: Friday, August 31, 2018 7:52 AM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Re: Rightscorp Meet and Confer
Attachments: image001.jpg

Rob,

Please provide an update on the Rightscorp spoliation issues. We are now many days past the time when you promised you would have a final answer.

Richard

On Aug 28, 2018, at 3:20 PM, Richard L. Brophy <RBrophy@ArmstrongTeasdale.com> wrote:

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<image001.jpg>

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Tuesday, September 04, 2018 3:45 PM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: RE: Rightscorp Meet and Confer

Rob,

Once again, please provide an update on the below issue. We need an answer from Rightscorp/Plaintiffs immediately.

Richard

Armstrong Teasdale LLP

Richard L. Brophy | Partner – IP Litigation

DIRECT: 314.342.4159 | FAX: 314.613.8579 | MAIN OFFICE: 314.621.5070 | CELL: 314.566.5117

From: Richard L. Brophy
Sent: Friday, August 31, 2018 7:52 AM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Re: Rightscorp Meet and Confer

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Richard

<image001.jpg>

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Tuesday, September 18, 2018 2:18 PM
To: Phil O'Beirne; Robert B. Gilmore <RGilmore@steinmitchell.com>
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Rightscorp

Phil,

During our September 6th meet and confer, you indicated you would produce CM records by the end of last week. We still haven't received anything. Rightscorp is already woefully delinquent in producing these materials, which it promised to produce well before Rightscorp's deposition. If we do not receive them by the end of this week, we will assume they do not exist and proceed accordingly.

You also promised us updates by early last week on call center notes/logs and the retention of data transferred between alleged infringers and Rightscorp's system. We have not heard anything on these items either. Should we assume that these materials no longer exist?

Richard

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Maggie Szewczyk

From: Phil O'Beirne <POBeirne@steinmitchell.com>
Sent: Wednesday, September 19, 2018 9:04 AM
To: Richard L. Brophy; Robert B. Gilmore
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Re: Rightscorp

Richard,

We disagree with your characterization of Rightscorp's productions to date and with our meet and confer discussion.

What we told you is that we are actively working with Rightscorp to obtain the version control information, which we believe does exist and will be accessible. This remains the case and we hope to have a substantive update for you by the end of the week regarding both the version control information and the call center information.

Best Regards,

Philip J. O'Beirne
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901 15th Street, NW, Suite 700
Washington DC 20005
D 202.661.0900
C 571.308.4967
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On 9/18/18, 3:18 PM, "Richard L. Brophy" <RBrophy@ArmstrongTeasdale.com> wrote:

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Tuesday, September 25, 2018 10:50 AM
To: Phil O'Beirne; Robert B. Gilmore
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: RE: Rightscorp

Phil,

Another week has passed and we are still waiting for information regarding Rightscorp. Please let us know when we can expect a response.

Thanks,
Richard

Armstrong Teasdale LLP
Richard L. Brophy | Partner - IP Litigation
DIRECT: 314.342.4159 | FAX: 314.613.8579 | MAIN OFFICE: 314.621.5070 | CELL: 314.566.5117

-----Original Message-----

From: Phil O'Beirne [<mailto:POBeirne@steinmitchell.com>]
Sent: Wednesday, September 19, 2018 9:04 AM
To: Richard L. Brophy; Robert B. Gilmore
Cc: Zachary C. Howenstine; Maggie Szewczyk; Michael Carwin
Subject: Re: Rightscorp

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Best Regards,

Philip J. O'Beirne
Stein Mitchell Cipollone Beato & Missner LLP
901 15th Street, NW, Suite 700
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C 571.308.4967
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Richard

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Wednesday, December 19, 2018 4:32 PM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com); Jonathan E. Missner (JMissner@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk
Subject: Re: UMG v. Grande - RIAA depositions [IWOV-iDocs.FID3130226]

Rob/Phil,

There are number of issues on which we would like to meet and confer. Given the impending holidays, we propose finding time tomorrow for a call. If you agree, please let us know your availability.

First, we would like to address the issues raised in Zach's email below. I understand that you now intend to respond to his letter tomorrow. While that response may resolve our concerns, I suspect there will be a need to meet and confer. We would prefer to conduct that conference sooner rather than later.

Second, we intend to seek the deposition of the individual responsible for collecting the song files that were the subject of Mr. Landis' declaration and recent deposition. Mr. Landis indicated during his deposition last week that he (and by extension the RIAA and Plaintiffs) have no information regarding the origin of those files. Given this professed lack of relevant knowledge, especially in light of the topics for which he was produced, we will need to depose the individual responsible for allegedly downloading those files from Grande subscribers and for generating the specific files and file names that were analyzed.

Third, it is vital that we receive a final answer from Plaintiffs and Rightscorp regarding the completion of Rightscorp's document production efforts. For example, we have been waiting for months to learn whether Rightscorp is capable of producing the records from its software change management system. We have also been waiting on the results of your efforts to locate and produce Rightscorp's call center materials. You first promised those materials on September 14th. We have met and conferred on this issue multiple times, and every time you indicated that you were actively working with Rightscorp to address our concerns. It is now three months later, and we still have no documents and no answer on the availability of those materials. Should we conclude those materials no longer exist?

Thanks,
Richard



Armstrong Teasdale LLP

Richard L. Brophy | Partner – IP Litigation

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From: Robert B. Gilmore [<mailto:RGilmore@steinmitchell.com>]
Sent: Tuesday, December 18, 2018 10:18 AM
To: Zachary C. Howenstine
Cc: Phil O'Beirne; Jonathan E. Missner; Richard L. Brophy; Maggie Szewczyk; Michael Carwin
Subject: Re: UMG v. Grande - RIAA depositions [IWOV-iDocs.FID3130226]

Zach:

I'm traveling back from the west coast today. We are preparing a response to your email which we intend to send to you by tomorrow.

Robert B. Gilmore

On Dec 17, 2018, at 6:02 PM, Zachary C. Howenstine <ZHowenstine@ArmstrongTeasdale.com> wrote:

Counsel,

We are writing concerning a serious issue that came to light in Ms. Sheckler's deposition last Tuesday. Specifically, Ms. Sheckler revealed that RIAA has sent written RFPs/RFQs to Rightscorp, and Rightscorp has provided written responses, on at least four separate occasions. This also suggests that RIAA and Rightscorp very likely have exchanged additional communications regarding these matters.

These documents are very clearly responsive to Grande's subpoena to RIAA, Grande's subpoenas to Rightscorp, and Grande's discovery requests to plaintiffs (who, as RIAA member companies, had the right and ability to obtain these documents from RIAA, which was communicating with Rightscorp on plaintiffs' behalf). *See, e.g.*, Subpoena to RIAA, RFP Nos. 3-5, 17, 18; Subpoenas to Rightscorp, RFP Nos. 5-7, 13, 18, 24, 25, 37; Grande's RFPs to Plaintiffs, Nos. 21-23, 36, 51, 52, 56, 59, 62. None of these documents are arguably privileged or work product, and in any event, none of these documents appear on RIAA's privilege log. The same is true of the NDA between RIAA and Rightscorp, which neither RIAA nor Rightscorp has any legitimate basis for withholding.

The existence of these documents establishes that RIAA and plaintiffs have made a number of misleading—at best—statements to the court about communications with Rightscorp. *See, e.g.*, ECF No. 107 at 5 ("Here, all communications among RIAA, Rightscorp and Plaintiffs included RIAA's and Plaintiffs' in-house or outside counsel, and concerned providing legal advice to Plaintiffs or providing information and support for Plaintiffs concerning litigation over Defendants' wrongful conduct giving rise to secondary infringement liability."); ECF No. 121 at 1 ("RIAA's role shows that its communications with Plaintiffs and Rightscorp are protected by the attorney-client privilege and work product privileges . . ."); ECF No. 136-1 at 2 ("In 2016, Rightscorp contacted RIAA regarding potential litigation arising from evidence Rightscorp had collected concerning Grande . . ."). In general, RIAA's briefing in this matter has seemingly been intended to give the inaccurate impression that the relationship between plaintiffs/RIAA and Rightscorp is and has been limited to this litigation. Furthermore, Mr. Sabec and Ms. Sheckler were evasive in their testimony on this subject, with Ms. Sheckler only acknowledging that these communications had occurred when she was directly asked about RFP responses.

Grande demands that plaintiffs, RIAA, and Rightscorp immediately remedy these deficiencies and produce all non-privileged communications between RIAA and Rightscorp. Once that has occurred, Grande will assess what additional depositions may be necessary. Further to this point, we note that Mr. Landis was also completely unprepared to offer any testimony about RIAA's knowledge of the functionality or capabilities of the Rightscorp system, with respect to the improperly-withheld documents and otherwise. Grande reserves all rights in connection with these issues.

Please let us know the position(s) of plaintiffs, RIAA, and Rightscorp on this issue as soon as possible.

Thanks,

Zach

<image001.jpg>

Armstrong Teasdale LLP

Zachary C. Howenstine

7700 Forsyth Blvd., Suite 1800, St. Louis, Missouri 63105-1847

DIRECT: 314.342.4169 | FAX: 314.613.8588 | MAIN OFFICE: 314.621.5070

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Maggie Szewczyk

From: Richard L. Brophy
Sent: Wednesday, December 26, 2018 10:39 AM
To: Robert B. Gilmore <RGilmore@steinmitchell.com> (RGilmore@steinmitchell.com); Phil O'Beirne (POBeirne@steinmitchell.com)
Cc: Zachary C. Howenstine; Maggie Szewczyk
Subject: RIAA v. Grande - Follow-up from meet and confer [IWOV-iDocs.FID3130226]

Counsel,

I am writing to confirm our understanding of the items discussed on last week's meet and confer call.

RIAA document production

As we indicated on the call and in our previous email, Grande seeks all communications and other materials related to any RFP/RFQ exchange (either formal or informal) between the RIAA and Rightscorp. This includes not only the materials transmitted between the parties, but also any internal assessment (formal or informal) by RIAA personnel relating to any materials submitted by Rightscorp. On the call, you indicated that you are focusing on "technically-oriented" materials, but that your interpretation of that phrase broadly encompasses any assessments and other analysis or reactions generated by RIAA.

During her deposition, Ms. Sheckler indicated that the RIAA retains documents indefinitely. Accordingly, we understand that the foregoing documents do exist and are in the process of being retrieved and reviewed. We expect that any responsive documents that the RIAA seeks to withhold on privilege grounds will be properly logged.

RIAA additional witness

During oral argument on the parties' various discovery disputes, the RIAA agreed to produce a witness to testify on RIAA's understanding of the operation and capabilities of the Rightscorp system. The RIAA offered Mr. Landis on Topics 2, 8 and 11, but he was not prepared to address that topic and confirmed during deposition that he had not reviewed a single document regarding the Rightscorp system in preparation for his deposition. Despite this, you indicated that the RIAA is refusing to produce a properly prepared witness on Topics 2, 8 and 11. That is unfortunate, and we will be moving to compel production of a competent witness on those topics.

Rightscorp spoliation issue

Grande has been waiting to hear from Rightscorp on the existence of its change management and call center records since before September. We understand based on our conversation of last week that Rightscorp is finally able to confirm that it did not retain its call center logs (voicemails, conversations with subscribers, etc.). We further understand that Rightscorp has been able to locate change management records and will be producing those records by the end of this week. We note that we have received a number of similar assurances in the past. For that reason, we indicated that we will not continue to delay the filing of our Rightscorp spoliation motion any longer than the end of this week.

Thanks,
Richard



Armstrong Teasdale LLP

Richard L. Brophy | Partner – IP Litigation

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